

#### § 1735.44

less depreciation shall at all times be at least equal to the remaining principal payments on the loan. Funding of the reserve must begin within one year of approval of release of funds and must continue regularly over the expected composite economic life of the facilities financed.

(c) Borrowers that have demonstrated to the satisfaction of the Administrator an inability to maintain the funded reserve or net plant to secured debt ratio requirements, if any, contained in their mortgage, may elect to replace notes with an original maturity that exceeded the composite economic life of the facilities financed with notes bearing a shorter maturity approximating the expected composite economic life of the facilities financed, if this will result in a shorter maturity for the loan. The principal balance of the notes (hereinafter in this section called the "refunding notes") issued to refund and substitute for the original notes would be the unpaid principal balance of the original notes. The refunding notes would mature at a date no later than the remaining economic life of the facilities financed by the loan, plus three years, as determined by the original feasibility study prepared in connection with the loan. Interest on the original note must continue to be paid through the closing date. All other payment terms, including the rate of interest on the refunding notes, would remain unchanged. Disposition of funds in the funded reserve will be determined by RUS at the closing date. RUS will notify the borrower in writing of the amendment of loan payment requirements and the terms and conditions thereof.

(d) A borrower qualifying under paragraph (c) of this section shall not be required to pay a prepayment premium on such portion of the payments under its new notes as exceeds the payments required under the notes being replaced.

(e) To apply for refunding notes, borrowers must send to the Area Office the following:

(1) A certified copy of a board resolution requesting an amendment of loan payment requirements and that certain notes be replaced;

(2) If applicable, evidence of approval by the regulatory body with jurisdiction over the telecommunications service provided by the borrower to issue refunding notes; and

(3) Such other documents as may be required by the RUS.

(f) Principal and interest will be repaid in accordance with the terms of the notes. Generally, interest is payable each month as it accrues. Principal payments on each note generally are scheduled to begin 2 years after the date of the note. After this deferral period, interest and principal payments on all funds advanced during this 2-year period are scheduled in equal monthly installments. Principal payments on funds advanced 2 years or more after the date of the note will begin with the first billing after the advance. The interest and principal payments on each of these advances will be scheduled in equal monthly installments. This CFR part supersedes those portions of RUS Bulletin 320-12, "Loan Payments and Statements" with which it is in conflict.

[56 FR 26598, June 10, 1991, as amended at 62 FR 46871, Sept. 5, 1997]

#### § 1735.44 Prepayment premiums.

The loan documents normally provide that RUS insured loans may be repaid in full at any time without prepayment premiums. Depending upon the lender, there may be prepayment premiums on loans guaranteed by RUS. See 7 CFR part 1610 for prepayment premiums on RTB loans. See RUS Bulletin 320-12 for additional information. This CFR part supersedes those portions of RUS Bulletin 320-12, "Loan Payments and Statements", with which it is in conflict.

#### § 1735.45 Extension of payments.

RUS may extend the time of payment of principal or interest on a loan. Under section 12 of the Rural Electrification Act, as amended, this extension may be up to 5 years after such payment is due. Under section 236 of the Disaster Relief Act of 1970 (Pub. L. 91-606) payment may be deferred by the Secretary of Agriculture as long as necessary in disaster situations so long as the final maturity date is not later than 40 years after the date of the loan.

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See RUS Bulletin 320-2 for additional information.

### § 1735.46 Loan security documents.

(a) Loans are to be repaid according to their terms. RUS generally obtains a first lien on all assets of the borrower. This lien shall be in the form of a mortgage by the borrower to the Government or a deed of trust made by and between the borrower and a trustee, satisfactory to the Administrator, together with such security agreements, financing statements, or other security documents as RUS may deem necessary in a particular case. Where a borrower is unable by reason of pre-existing encumbrances, or otherwise, to furnish a first mortgage lien on its entire system the Administrator may, if he determines such security to be reasonably adequate and the form and nature thereof otherwise appropriate, accept other forms of security. See RUS Bulletins 320-4, 320-22, 321-2, 322-2, 323-1, and 326-1 for details. See 7 CFR part 1744, subpart B for information on lien accommodations and subordinations.

(b) Loan security documents of borrowers with loans approved after October 6, 1997 will provide limits on allowable cash distributions in any calendar year as follows:

(1) No more than 25 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at least 1 percent of its total assets after the distribution is made;

(2) No more than 50 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at least 20 percent of its total assets after the distribution is made;

(3) No more than 75 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at least 30 percent of its total assets after the distribution is made; or

(4) No limit on distributions if the borrower's net worth is at least 40 percent of its total assets after the distribution is made.

(c) Borrowers that have not received a loan after October 6, 1997 may request the Administrator to apply these requirements to them. Borrowers may request in writing that RUS substitute the new requirements described in paragraphs (b)(1) through (b)(4) of this

section. Upon request by the borrower, the provisions of the borrower's loan documents restricting cash distributions or investments shall not be enforced to the extent that such provisions are inconsistent with this section.

(d) Rural development investments meeting the criteria set forth in 7 CFR part 1744, subpart D, will not be counted against a borrower's allowable cash distributions in any calendar year (7 U.S.C. 926).

(e) References to a borrower's mortgage in this section include deeds of trust and any other loan document applying the same requirements to a borrower.

(f) This section does not limit the rights of any parties to the mortgage other than RUS or RTB.

[54 FR 13351, Apr. 3, 1989. Redesignated at 55 FR 39395, Sept. 27, 1990, as amended at 59 FR 29537, June 8, 1994; 62 FR 46871, Sept. 5, 1997]

### § 1735.47 Rescissions of loans.

(a) Rescission of a loan may be requested by a borrower at any time. To rescind a loan, the borrower must demonstrate to RUS that:

(1) The purposes of the loan being rescinded have been completed;

(2) Sufficient funds are available from sources other than RUS, RTB or FFB to complete the purposes of the loan being rescinded; or

(3) The purposes of the loan are no longer required to extend or improve telephone service in rural areas.

(b) Borrowers submitting loan applications containing purposes previously covered by a loan that has been rescinded shall include in the application an explanation, satisfactory to RUS, of the change of conditions since the rescission that re-establishes the need for those purposes.

(c) RUS shall not initiate the rescission of a loan unless all of the purposes for which telephone loans have been made to the borrower under the Act have been accomplished with funds provided under the Act.

[56 FR 26598, June 10, 1991]